

Albania¹

IHF FOCUS: Freedom of expression and the media; judicial system and independence of the judiciary; ombudsman's office; torture, ill-treatment and misconduct by law enforcement officials; conditions in prisons and detention facilities and prisoners' rights; death penalty; protection of ethnic minorities.

In Albania in 1999, there was both progress and failure in important areas of human rights observance. The ombudsman's office, provided for in the 1998 constitution to aid protection of citizens' rights and freedoms, was not able to come into function in 1999, as an indirect consequence of the Kosovo crisis.

Progress was made concerning the abolition of the death penalty, a step to which Albania had committed itself when joining the Council of Europe in 1995. A December judgement of the Albanian Constitutional Court, ruling that penal code provisions contradicted the constitution on this issue, laid the way open for the death penalty to be abolished, although concerns remained about a number of prisoners on death row, whose treatment was judged to be inhumane.

The prevalence of crime in Albania was associated with a number of human rights concerns, particularly over the behavior of law enforcement officials, who were accused of brutal mistreatment of suspects, of arbitrary arrests, and of a general lack of professionalism.

The crisis in policing in Albania also affected the judicial system. A trend towards accepting summary justice as a suitable method for reducing crime undermined the judicial system and the rule of law. The judicial system was also under pressure from a series of attacks on legal practitioners.

During 1999, the Albanian Helsinki Committee (AHC) embarked on a comprehensive program of monitoring conditions in Albanian prisons and detention centers, in collaboration with the Netherlands Helsinki Committee. On the basis of initial data, the AHC made a number of recommendations for improvements in the penal system. Concerns included physical deprivation, violence against inmates, the need for special facilities for minors, and the lack of programs to re-educate and re-integrate inmates.

After a parliamentary debate on minority issues in May, the Albanian parliament voted to ratify the 1994 European Framework Convention for the Protection of Minorities, leading to hopes of a new approach to minority issues in Albania.

Freedom of Expression and the Media

Albanian legislation and in particular the new constitution provided for freedom of expression and freedom of the media. The authorities, generally speaking, respected these rights in 1999 and the media generally had sufficient access to information. However, in more than one case journalists were targets of attacks by the police.

The media were active and unrestrained in reporting but had developed little sense of journalistic responsibility or professional integrity. Sensationalism was commonplace in the newspapers, and papers linked to specific political parties particularly tended to publish gossip, unsubstantiated accusations and outright fabrications. Some publications appeared to be making efforts to improve professional standards and to provide more balanced and accurate reporting.

Although there was little in the way of new developments regarding media freedoms

¹ Unless otherwise noted, based on information from the Albanian Helsinki Committee.

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and freedom of information in Albania, the year was marked by a general rise in violent crime, police abuses, some of which affected the work of journalists,² and a polarization of the political scene as the older generation of party leaders reasserted control. The major print media were largely seen as aligned to either the Socialist Party of Fatos Nano or the Democratic Party of Sali Berisha, as a result of which their investigations into matters of public interest, such as official corruption, or links between organized crime and law enforcement officers or politicians tended to focus only on the “other” party.

Harassment of Journalists

There were few but nonetheless significant cases of harassment and violence against journalists in Albania during the year.

■ On 1 July, the newspaper *Koha Jone* published an article entitled “Why Do You Keep Policemen Who Are Criminals, Mr. Minister of Order?” The article referred to the ill-treatment of two *Koha Jone* journalists, Mr. Murati and Mr. Sadiku, by police officers in the town of Elbasan. According to *Koha Jone*, a police patrol had stopped the journalists’ car because the driver had allegedly broken traffic rules. The newspaper claimed the men were thereafter subjected to physical abuse by the officers in the street and at a police station. According to a medical report, Riza Sadiku suffered serious injuries and had to stay on sick leave for 14 days.

The AHC called for the Ministry of Public Order to institute a thorough and independent investigation of the incident, noting that such transparency on the part of authorities would help build trust between the police force and citizens in Albania.

■ On 23 November, Vjollca Karanxa, a journalist with RTP, a local television station in southern Albania was shot and seriously injured while leaving a school in Pogradec (southern Albania), from where she had been reporting. Unknown assailants in a car fired upon the journalist, who needed emergency hospital treatment as a result of the attack. The authorities announced that an inquiry into the shooting would be launched.³

Judicial System and Independence of the Judiciary

Independence of the Judiciary

There were attempts to influence the workings of courts by, e.g. the authorities, including the police. The AHC condemned this and published an appeal for the independence of the judiciary to be respected.

■ In the town of Shkoder at the end of July, a court decision which resulted in the release of a number of people held in pre-trial detention provoked a violent reaction by police officers. On the day of the ruling, the police surrounded the court building and reportedly entered the building and threatened the judges.

The AHC noted that although there were well-founded fears among the Albanian public of the rising incidence of crime in the country, the onus was upon law enforcers to work effectively and within the law to reduce crime. Should there be doubts about the professionalism of members of the judiciary, the AHC said, these concerns should be pursued through legal channels, not by such actions which undermined the immunity and independence of the courts.

² See *Harassment of Journalists*.

³ IFEX Alert, 23 November 1999, source: *Reporters Sans Frontières*.

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Attacks on Members of the Legal Profession

■ On 21 February, respected lawyer Kleanthi Koci was attacked and severely wounded by unidentified assailants. Koci died a couple of days later during a flight to Rome to receive medical care. The AHC, together with the National Chamber of Advocates and other lawyers' associations, denounced the incident as an attack on the justice system in general. The AHC did, however, welcome the concern shown by Prime Minister Majko and Minister of Justice Kondi and others, who had visited Koci in the hospital.

The killing of Kleanthi Koci was preceded by other acts of terror targeting representatives of the justice system, including an earlier bomb attack on the home of Mr. Abdiu, chair of the Constitutional Court. In all cases, the perpetrators remained unidentified, leading many to blame police inefficiency. Many lawyers who felt unprotected and exposed to criminal acts decided to boycott court proceedings in protest.

Extrajudicial Punishment

The rising criminality in Albania led to another worrying development concerning the judicial system: the tendency of law enforcement officials to portray violent settling of accounts between gangs, and extrajudicial killings of suspected criminals as a positive contribution to the fight against crime. The AHC condemned such dangerous and unacceptable measures circumventing the judicial process, and encouraging vigilantism. It supported attempts by law enforcement officials to combat criminality in Albania, but stressed that the police should at all times act within the law and in cooperation with the judicial system, as the only way to strengthen the rule of law and public order in Albania.

Ombudsman's Office

The constitution of Albania, adopted in November 1998, provided for the ombudsman's institution, which was given special status. In the field of citizens' rights, its competence was large. Taking into account the importance of this institution, a special law dealing with a wide range of problems concerning its functioning, was passed in the beginning of February 1999. This law also stipulated the appointment of an ombudsman by the parliament within a three-month period, i.e. by May.

However, due to the escalating developments in Kosovo, the OSCE Ambassador in Tirana, Daan Everts, postponed the election proceedings of the ombudsman. The ambassador wanted to refine the proceedings, firmly establishing the necessary groundwork. Albanian NGOs affirmed the importance of the ombudsman's institution in protecting the rights and freedoms of citizens. However, they expressed their concern about the lack of transparency in the nomination of the candidates for the ombudsman's office.

Torture, Ill-Treatment and Misconduct by Law Enforcement Officials

The arbitrary use of violence remained one of the most serious problems in Albania. Most perpetrators were members of well-organized criminal organizations, operating with strikingly sophisticated means. The police force appeared to be totally incapable of efficiently combating violence and other crimes in the attempt to protect individuals' rights. Moreover, police were often directly involved in violent acts.

■ On 1 June, the newspaper *Zeri i Popullit*, published a detailed report of violent intervention by police forces in the village of Spotalte in the district of

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Lushnje. According to the report, when the special police forces failed to find a criminal suspect they were seeking, they started to ill-treat members of the community, arresting two villagers and extorting sums of money from local people.

■ On 6 June, the daily *Koha Jone* reported on a protest by citizens in Cerrik against police violence, detailing 64 cases of police violence against local inhabitants, and accusing the local police commander of responsibility for the incidents. It was also reported that at least 45 people had signed a petition against police violence addressed to the police commander in Elbasan.

■ According to press reports, four policemen from the police station of Gramshi district used force against four 19-year-old students from the local secondary school – A. Tace, M. Cela, J. Shtylla and F. Llepushi – when the students were leaving a farewell party organized after school graduation. According to reports, one student needed medical care and there were widespread protests among local community leaders and politicians, condemning the behavior of the police.

■ The AHC received a report of police violence against the neighbor of a man sought by police in connection with a crime. The victim, Adratic Feka, stated that the wanted man had hidden in his apartment, without Feka's knowledge, at the time the police were searching for him. Thereafter, the suspect was caught and the police returned to Feka's apartment at midnight on 25 September, accused him of having sheltered a criminal and physically maltreating him and his family before taking him to the police station for questioning. He was released two hours later but was unable to work for two days because of his injuries.

In Albania in 1999, the police were able to resort to brutality with wide impunity. Ac-

ording to the AHC, the silence and inactivity on the part of responsible authorities could easily be considered as condonement of police violence. Additionally, it demonstrated authorities' disregard for public opinion, which was against the use of violence by police. The AHC stressed than one thing to improve the behavior of law enforcement officials lay with better training at all levels of the police force.

Conditions in Prisons and Detention Facilities and Prisoners' Rights

The AHC continued with a three-year monitoring program, in collaboration with the Netherlands Helsinki Committee, looking at the situation in prisons and detention centers in Albania. The object of the monitoring was the constitutional and procedural guarantees of the detainees, and the conditions of their treatment in the detention sites and prisons.

Article 25 of the constitution stipulated that no one may be subjected to torture and cruel, inhuman and humiliating punishment or treatment. The same principle was upheld in article 5 of the penal code.

During talks with detainees, it transpired that at the time of their detention many were not informed of their constitutional and procedural rights, such as the right to free legal defense, the right to have immediate contact with a lawyer, the fact that they were not obliged to make a statement, etc. Some detainees claimed that contact to the lawyers and their families had been delayed.

On the basis of the first round of monitoring work, it was recommended for the future reform of the prison and detention system, among others, that the transfer of the pre-trial detention system from the auspices of the Ministry of Public Order to those of the Ministry of Justice, under the authority of the General Directorate of

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Prisons, be accomplished according to a transparent process, and that the use of violence in detention centers should be outlawed. The problem of overstretched capacities in penal facilities constituted a serious concern, and needed careful reviewing.

The actual situation in prisons and detention facilities needed to be accurately recorded, and effective planning for future resources was required. Moreover, professionalism should be increased among police forces, including the obligation to inform those detained and arrested about their constitutional rights, in particular about their right to a defense attorney and to have their families informed about their detention. In order to raise living conditions in detention centers, the concept that detainees were to suffer physical deprivation as a punishment needed to be changed and material improvements made in conditions to ensure detainees were treated humanely. According to the AHC, the right of complaint of abuses needed to be recognized and applied in all detention sites and the abusive officers punished. Detainees should have access to information about the outside world through TV, radio and press, food standards should be improved in both detention centers and prisons and the importance of cultural and sport activities in prisons in facilitating the re-education and re-integration of convicted persons into society should be recognized and acted upon, as well as the creation and development of employment possibilities for convicts. The AHC stressed the necessity to open a special institution for minors due to the high percentage of minors among the total prison and detention center population and the need for specific and attentive treatment for detained and convicted women.

Death Penalty

In July 1995, Albania made a commitment to abolish the death penalty, when the

country joined the Council of Europe. On that occasion, the Albanian government pledged first a three-year moratorium on carrying out death sentences, and later to exclude the death sentence from legislation.

This commitment was partially respected, since no death penalty was carried out after 1995. It was calculated that from 1995, the courts had administered 20 death sentences, all of which had been blocked by the presidency. The second and the most important part of the above commitment, the outright abolition of the death penalty in the penal legislation, was not respected. Consequently, Albania had not yet joined the 6th Protocol of the ECHR within the period of three years as agreed by the Council of Europe. The new constitution, adopted by a public referendum in November 1998, provided for the right to life but did not, however, explicitly abolish the death penalty.

The treatment of death row prisoners in Albania was a matter of deep concern. During its investigations into the treatment of detainees at Albanian police stations, the AHC found that according to internal regulations at the Vlora police station, police were treating prisoners given the death sentence inhumanely. They were binding the hands and legs of these prisoners and forcing them to wear a metal helmet until all court levels had reviewed their cases. The Vlora police station claimed that they employed these "tactics" to prevent prisoners from committing suicide.

The death penalty posed a serious threat to legality in a case in which it was difficult for Albanian courts to guarantee an independent and professional administration of justice.

In the second half of 1999 this problem grew more acute, with increasing public pressure on courts to hand down death sentences, because the death penalty was

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widely regarded as an indispensable deterrent to increasing criminality.

■ The *Albanian Daily News* reported that on 11 December, Prime Minister Pandeli Majko said that armed robbers killing policemen should be killed on the spot.⁴

In response to an idea expressed by some political parties to decide this question through a referendum, the AHC issued a special statement in August, describing the idea of a referendum on the death penalty issue as in contravention of the constitution. Article 151 of the constitution expressly excluded the holding of a referendum on certain issues. In addition to the major issues of the territorial integrity of Albania, the budget and taxation, those regarding eventual restrictions of fundamental rights and freedoms were also excluded. Moreover, article 17 of the constitution, while addressing the question of the possible restrictions of the rights and freedoms of the citizens in para. 2, underlined that “these restrictions in no way can exceed the restriction as provided for by the European Convention on Human Rights.”

A new initiative started in mid-November to raise public awareness about the importance of Albania’s commitment as a Council of Europe member on this issue. A round table gathering was attended by justice officials and representatives of major institutions in Albania. The resulting debate made it clear that there was both a concern that Albania should fulfil its commitments to abolish the death penalty and that effective means to combat crime should also be found.

Under increasing pressure from European institutions, the Albanian political authorities set the process of abolition in motion in late 1999. The Supreme Court put the case to the Constitutional Court, which

was asked to express its opinion about the compatibility of the death penalty with the constitution. In its judgement of 10 December, the Constitutional Court proclaimed the death penalty still existing in the penal legislation contradicted both the letter and the spirit of the constitution. The way was thus laid open for the ratification of the 6th Protocol by the parliament, i.e., for the death penalty to be abolished in Albania.

Protection of Ethnic Minorities

After a parliamentary debate on minority issues during the last week of May, the Albanian parliament voted to ratify the 1994 European Framework Convention for the Protection of Minorities, already signed by the Albanian government. Local monitors hoped that, in the light of the Convention’s ratification, a new approach to minority issues would be embraced in Albania.

In the past, the Greek minority was the primary catalyst for thought and debate on the minority question in Albania. According to various sources, this population, concentrated in the south of the country, numbered between 70,000 and 300,000. In the opinion of the AHC, there was a strong tradition of normal and friendly co-existence between the Albanian majority and the Greek ethnic population.

Nevertheless, the ethnic Greek population said it still continued to face insufficient opportunities for Greek-language education, following some improvements that had been made in recent years in primary education. The Greek faced discrimination in the public sector when looking for work, and were not allowed to form political parties on ethnic bases.

The Vlach population was largely assimilated, but some Vlach associations worked

⁴ RFE/RL Newswire, 11 December 1998.

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for the preservation of various aspects of the Vlach culture, particularly the language.

As elsewhere in Europe, Roma in Albania were increasingly the target of racism. They were discriminated against in many areas of social and economic life, leading ultimately to their social exclusion. The Roma were also victims of physical aggression. ■■■